IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Crl.Misc.No. 20210-M of 2007

Date of Decision: 17.4.2007

Jaswinder Singh .....Petitioner

Versus

State of Punjab .....Respondent

CORAM:- HON'BLE MR.JUSTICE S. D. ANAND

Present: Mr.Suresh Goel, Advocate
for the petitioner.

S.D.ANAND, J.

In the present petition under Section 482 of the Code of Criminal Procedure, vide which the petitioner has applied for the setting aside of order dated 23.10.2006 (Annexure P1), the facts are as under:

The petitioner was facing trial in case FIR No.181 dated 14.7.2004, under Sections 307/323/341/201/427/148/149 of the Indian Penal Code and 25,27/54/59 of the Arms Act. The relevant prosecution against him had been lodged by the police of Police Station Kotwali, Barnala. The matter was fixed for hearing on 23.10.2006. Though the petitioner (and his co-accused) were available outside the Court House since morning, they could not turn up at the call of the case and they were marked as absent. Petitioner's counsel verbally brought facts to the notice of the learned Trial Court, but the submission made by him to record the presence of the petitioner did not find favour with the Court. Even the mention of the facts

to the Sessions Judge, Sangrur on that very day, did not bring forth any fruitful result. As a result, coercive process came to be issued against the petitioner consequent upon the forfeiture of the personal/surety bonds already furnished by him.

On 7.11.2006, the petitioner surrendered before a Court in case FIR No.97 dated 11.9.2006, registered at Police Station Badhni Kalan. On account of lodgment in Jail in case FIR No.97, he could not file a bail plea in case FIR No.181 dated 14.7.2004. It was only after his release on bail in case FIR No.97 dated 11.9.2006, vide order dated 10.2.2007 that he filed the present petition.

In support of the bail plea, the learned counsel for the petitioner invites the attention of this Court to the fact that his co-accused had been ordered to be released on bail vide order dated 9.11.2006 of this Court. When that fact was brought to the notice of this Court, it was directed that the matter may be listed before the same Hon'ble Judge after obtaining orders from Hon'ble the Chief Justice. However, the listing of the case as per roster was ordered by the Competent Authority and that is how the matter is again before this Court.

The petitioner has not approached the learned Trial Judge at all. A resort to a petition under Section 482 of the Code of Criminal Procedure for the setting aside of the impugned order dated 23.10.2006 would not be in order in the light thereof. The drawal of a parallel in the indicated manner is uncalled for, particularly when there has been inordinate delay on the part of the petitioner in approaching this Court. As per the own version of the petitioner, he absented himself from the Court of the learned Trial Judge on 23.10.2006. It was only on 10.2.2007 that he is reported to have

surrendered in the case FIR No.97 dated 11.9.2006. Enough time had intervened the date of absence in case FIR No.181 dated 14.7.2004 and the date of surrender in case FIR No.97 dated 11.9.2006. If the petitioner had actually been present outside the Court on 23.10.2006, there is no reason why he would not have made an application in writing before the concerned Court. Further, if the verbal submission made by him before the Trial Court did not find favour, there is no understandable reason why he would not have made an application in writing before the learned Sessions Judge, Sangrur. Thus, there is no merit in the present petition.

Apart therefrom, it may be noticed that FIR No.181 dated 14.7.2004 pertains to the year 2004. We are currently in the year 2007. Absence from proceedings is a factor which is substantially responsible for delay in the criminal cases. Such like pendency adds to the huge arrears in the Courts of law.

In the light of the foregoing discussion, the petition is held to be devoid of merit and is ordered to be dismissed.

(S. D. ANAND)
JUDGE

April 17, 2007
SRM